Supreme Court, U.S.
FILED

(1) 98 1945 FEB 25 1999

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IN THE

Supreme Court of the United States

OCTOBER TERM 1989

NO. 624

C.A. BURNETTE

PETITIONER

V.

GROVE ISLE HOTEL & CLUB, et al.,
BERNARD LERNER, OFFER NISSENBAUM.

RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA
FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI.

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26 pp

When a state court system fails to afford a United States citizen Due Process under the Constitution of the United States and erred in not reversing an appeal back to the lower tribunal , what violation of Federal law has been committed ?

When a State violates Federal laws under the Constitution of the United how does the Supreme Court of the United States set a precedent under the rule of law that prevents the continuation of such violations ?

When Petitioner, has filed continuous motions beginning in the Florida 11 TH. Circuit, Third District Court of Appeals and the Florida Supreme Court, reporting fraud by an attorney and Judge that resulted in the Petitioner's case being dismissed with prejudice and where Due Process under the Fourteenth an Fifth Amendment were violated when Petitioner was denied to be heard without prior notice. What can the United States Supreme Court do to uphold the Federal laws to make states accountable for such violations ?

When a fraud is perpetrated upon the state court system that violates Federal law and the court fails to address or investigate the issues what rule of law can the United States Supreme Court do to enforce these violations ?

When a question of great public importance is presented to uphold the integrity of the Judicial Court system when that court system is in violation of federal law how can the United States Supreme Court rule to uphold the rule of law ?

When violation of the Code of Ethics and Canons are violated by an Attorney by continuous submission of false, fraudulent Orders that do not reflect what the court has ordered and the Orders are signed by a Judge and those violations effect Federal law what rule of law can the United States Supreme Court enforce for the integrity of the Justice system to be maintained ?

TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED FOR REVIEW	(i)
TABLE OF CONTENTS	(ii)
TABLE OF AUTHORITIES	(iii)
TEXT OF THE PETITION	1
JURISDICTION	1
CONSTITUTION AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	2-9
ARGUMENT	9-18
CONCLUSION	18

TABLE OF CITED AUTHORITIES

SUPREME COURT CASES

Armstrong v. Manzo, 380 U.S. 545, 552, 85 S Ct. 1187, 1191, 14 L.Ed.62 p. 2

Baldwin v. Hale, 68 U.S. 233, 17 L.Ed. 531 p.2-3

Boddie v. Connecticut, 401 U.S. 371, 378, 91, SCt. 780, 786, LEd. 2d. 113. p.12

City of Rome v. Unites States, 446 U.S. 156, 177 (1980) P.10

Hazel- Glass Co. v. Hartford- Empire Co. 322 U.S. 238, 245-46, 64 S.Ct. 997, 1001, 88 L.Ed. 1250, 1255-56 (1944) p.5

Joint Anti- Facist Refugee Commitee v. Mc Grath, 341 U.S. 123, 170-172, 71 S.Ct. 624, 647, 95 LEd. 817 p. 11

Martin v. Hunter's Lessee, 14 U.S. (1 Wheat), 304 (1816) P.12

Micigan v. Long , 463 U.S. 1032, 103 SCT. 3469, 77 *EDd. 2d. 1201 (1983).* *p.14*

Murdock v. City of Memphis, 87 U.S. (20 Wall.) 590 (1875). P.12

Napoe v. Illinios, 360 U.S. 264 (1959). *P.13*

Smith v. Great Lakes Airlines, Inc. *p.5*

Stanley v. Illinois, 405 U.S. 645, 647,92 S.Ct. 1208, 1210, 31 LEd. 2d. 551 p.11

Wolfe v. North Carolina , 364 U.S. 177 (1960) p. 13

Florida District Court Cases

CASES P.7-9

Anthony **v.** ***Schmitt,*** **557 So. 656 (Fla. 2d. DCA 1990).**

Atena Insurance Company v. Estero Manufacturing & Building Supply, Inc. **Fla. App. 1965, 174 So. 2d 747**

Beasley v. Girten, **61 So. 2d. 179 (Fla. 1952).**

.Beasley, Lifeguard Corp. v. U.S. Corp., **So2d 94 (Fla. 2d DCA 1983).**

Beauchamp v. Collins, **500 So. 2d 294 (Fla. 3d. DCA 1986).**

Carr v. Dean Steel Bldgs., Inc., **619 So. 2d. 392, 394 (Fla. 1st DCA 1993).**

Clay Livingston v. State Dep't of Corrections, **481 So. 2d 2 (Fla. 1st DCA 1985).**

Dave's Aluminium Siding, Inc. v. C.& M. Ventures, **582 So. 2d. 147, (Fla. 3dDCA 1991).**

..Del Duca v. Anthony, **587 So. 1306 (Fla. 1991).**

(11)*Epps v. Hartley,* **495 So 2d 921, 922 (Fla. 4th DCA 1986).**

Hernando Martin v. Jose R.E. Batista, **639 So. 630 (Fla 3d DCA 1994)**

. Holl v. Talcott, Fla. **1996, 191 So. 40.(**

Pey v. Turnberry Tower Corp.., 474 So. 2d. 1279 (Fla. 3d. DCA 1985).
Pilkington PLC v. Metro Corporation, 526 So. 2d. 943..
Maxwell v. Rolls Royce Motors, Inc. 522 So. 2d. 1943 (Fla. 4th DCA 1988)

Maxwell Summitt Chase Condominium Ass'n v. Protean Investers, Inc. 421 So. 2d. 562 (Fla. 3d. DCA 1982)..

Morales v. Four Star Poultry & Provision Co. 523 So. 2d.1183 (Fla. 3d DCA).

Ramos v. Sanchez, 375 So. 2d 51 (Fla. 2d 1979)..

Shelia Rules v.Richard Cambell 661 So. 2d 408(Fla 3rd DCA 1995).
Southern Pine Corp. v. Capital National Bank, 324 So. 2d 112 3d DCA..

Stresscon Int'l, Inc. v. Ralph Merritt Dev. Corp., 384 (Fla.3d DCA)

Tri Star Invs., Inc. v. Miele, 407 So 2d 292 (Fla. 2d DCA 1981)

. *Turner v. Anderson*, 376 So. 2d 899 (Fla. DCA 1979)....
Ulm's Estate, 345 So. 2d 1099 (Fla. 2d DCA 1977).

Wallraff v. T.G.I. Friday's Inc. 490 So. 2d 50 (Fla. 1986).

Westinhouse Electric Supply Company v. Diplomat Electric, Inc. 221 So. 2d 436.

Wilson v. Woodard, 602 So. 2d. 547 (Fla. 2d. DCA 1992)

FLORIDA RULES

Fla. Prof. Resp. D.R. and Fla. Stds. Imposing Law. Sanc. **9.3..4-1.6 (A)...6.0, 6.1, 6.2 6.11,**

Fla. Code Jud. Conduct Canon **.2A, 3B(7).**

Fla. Code Jud. Conduct **Canon 3. (B), (5)..(D)...(E)**

. *Fla. Code of Prof. Resp.* d.r. 4-3.5.

F. R. Civ. P. 1.500, (B).3.7, 3.8

Fla. R. Civ. P. **1.510 (A)..(C) (D).**

Fla. R. Civ. P.R. **1.540 (B), (B3).**

Fla. R Jud. 2.071.

Fla. R. Jud. Adnin **2.060 (d),(k)**

Fla. Code of Prof. Resp. Rule **4-8.4**

Fla. Rules of Civ. P. Evidence **Code ch. 90.104,90.801,90.802**

SUPREME COURT

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Baldwin v. Hale, **68 U.S. 223, I WALL., 223, 17 LEd. 531.**

Celotex Corp. v. Catrett, **477 U.S. 317, 106, S.Ct. 2548, 91 LE2d. 265.**

Joint Anti- Facist Refugee Committee v. McGrath, **341 U.S. 123, 170-172, 71 S.C.t.___624, 95 LEd. 817.**

Mercer v. Raine, **443 So. 2d. 944 (Fla. 1993).**

Roller v. Holly, **176 U.S. 398, 20 S Ct., 410, 44 L.Ed 520 (1900 .)**

Stanley v. Illinois, **405 U.S. 645, 647, S.Ct. 1208, 331 LEd. 2d. 551.**

The Florida Bar Complainment v.s. Keith Roberts 689 So. 2d. 1049 (Supreme Ct. of (Fla. 27, 1997)

JURISDICTION

The Supreme Court of Florida entered its Order on November 3, 1998 for Petition for Review is denied. No Motion for Rehearing would be entertained by the Court. App., 1a.

Timely petitions for rehearing and for rehearing *en banc* were filed in the District Court of Appeal of Florida Third District, motion was issued on June 10, 1998 , denying both rehearing and for rehearing *en banc* . App., 2a.

An Order granting an extension of time to file the Petition for Writ of Certiorari, to the Supreme Court was granted on January 28, 1999. App., 3a.

The jurisdiction of this Court is invoked pursuant to U.S.C. sec. 1254 (1).

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United Stated Constitution provides as follows:

*** * * Judicial review of { the Due Process Clause} of the Fourteenth Amendment inescapably imposes upon this Court an exercise of judgment upon the whole course of the proceedings in order to ascertain whether they offend those Canons of decency and fairness which express the notions of justice.**

Under the Fifth and Fourteenth Amendments, for more than a century the central meaning of procedural due process has been clear: " Parties whose rights are to be affected are entitled to be heard; and in order that they

may enjoy that right they must be notified." *Baldwin v. Hale*, 68 U.S. 233, 1 Wall. 223, 17 L.Ed. 531.

*** * * It is equally fundamental that the right to notice and an opportunity to be heard " must be granted at a meaningful time and in a meaningful manner.**

***"Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187,1191, 14 L.Ed.2d 62.**

STATEMENT OF THE CASE

The Petitioner moves that the State Courts of Florida have violated constitutional rights under the Fourteenth Amendment under Due Process. Under sec { 287 }, states in cases involving constitutional rights, the Supreme Court states: " duty . . . to make its own independent examination of the record when federal constitutional deprivations are alleged. " *Napoe v. Illinios*, 360 U.S. 264 (1959).

The petitioner's case, *C. A. Burnette v. Grove Isle Hotel & Club, et al, a Florida Corporation, Bernard Lerner, Offer Nissenbaum*, was filed on September 11, 1995., in the Eleventh Circuit Court , Miami, Florida. This case involves false imprisonment and Environmental dumping. The defendants filed for a motion to dismiss and was set for a special set hearing on January 16, 1997 at 2:00 PM.

The petitioner filed a motion requesting an appearance by telephone under and pursuant to Florida Rules of Judicial Administration Rule 2.071, since petitioner is located in Washington, D.C., the motion was

allowed as it had been for the three previous hearings before Judge Sidney Shapiro. The petitioner moved for relief that the hearing be denied because the defendants motion to dismiss was based on a false, fraudulent submitted Order by the defendants attorney Richard Wassenberg. App., 4a (Index to record 493, 495-501, 502-504, 506,).

The petitioner scheduled for a telephone appearance from Washington, D.C., was denied on January 16, 1997 from attending the hearing. Under rule of law there must be sufficient notice and time given. " Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must be notified." *Baldwin v. Hale*, 68 U.S. 233, 1 Wall. 223, 17 L.Ed. 531.

The petitioner was denied Due Process under the Fourteenth Amendment and under the Fifth Amendment . The case was dismissed. *with prejudice.*

The Petitioner was denied the opportunity to be heard A denial of the opportunity to be heard is in direct conflict with both State , Federal, and Supreme Court decisions. Petitioner arranged for a Court Reporter to attend the hearing so the Hearing in its entirety would be preserved for the record. App., 5 a.

This preserved record holds many documented issues that protect the petitioner in reflecting the violation of due process , documentation of false Orders and false obtained judgments that were obtained by the defendants attorney Richard Wassenberg. Further the transcript reveals that the petitioner's case was not dismissed with prejudice as

the returned Order states. App. 6-12 a.

Petitioner filed an Appeal to the Third District Court of Appeals of Florida on January 17, 1997. The appeal was affirmed. Timely petitions for a rehearing, and for a hearing *en banc*, and for certification were denied on June 10, 1998. App. 2a Petitioner filed an Appeal to the Supreme Court of Florida. Petition for review was denied and no motion for Rehearing was allowed by the Court on November 3, 1998. App. 1a.

The first instance of federal violations began in the lower tribunal, the Eleventh Circuit. Petitioner asserted these violations through court Motions to inform the court that after each Motion calendar hearing of which an Order was issued, the Order was never completed by the defendants attorney Richard Wassenberg while in chambers or even shortly after. Instead the defendants attorney returned the Orders days or weeks after the court hearing was held. Petitioner was not copied with these Orders prior to their submission.

Each return Order contained the chosen contents of the attorney not the courts ruling as stated by the Judge. The *ORDER'S* returned contained false, misleading an fraudulent contents that not only prejudiced the Petitioner's case but in the same instance violated federal law. Due process was not afforded the Petitioner. To further aspirate these egregious acts the court chose to ignore the many motions filed by the petitioner seeking relief through imposed sanctions against the attorney

Richard Wassenberg. All moved motions by Petitioner are of record with 11 Th. Circuit, Third District Court of Appeals, and the Supreme Court of Florida. App., 13-44a. In *Hazel- Atlas Glass Co. v. Hartford- Empire Co.* 322 U.S. 238, 245-46, 64 S.Ct. 997, 1001, 88 L.Ed. 1250, 1255-56 (1944),. the Supreme Court reversed: stating,

*** * * Every element of the fraud here disclosed demands the exercise of the historic power of equity to set aside fraudulently begotten judgments . Furthermore,, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud * * ***

As seen in *Smith v. Great Lakes Airlines, Inc.*, fraud is one of the substantive grounds upon which relief may be granted in such an action.

The petitioner each time was confronted with not only the submission of false returned orders but the presiding Judge Sidney Shapiro signing these motions upon there submission back to the court. App., 4 a. (Index to Record 495-501, 502-504, 506.

Retaliation was further shown by gross misconduct of manners in violation of the Code of Canons by the Judge Sidney Shapiro, including ex-parte communication with the defendants attorneys, Richard Wassenberg and Bruce Telander. Further in a Motion Calendar hearing the petitioner orally and upon motion requested a clarification from the Judge as to why the court was condoning the return of Orders days later that were false. The Judge rudely hung up and Petitioner had to return the call by telephone appearance. Each motion documenting these allegations are of record. App., 4, a. (Index to Record 506).

Petitioner continued to raise these issues of violations by the attorney and Judge to no avail. Petitioner through Motions requesting sanctions on these violations were denied in first instance in the lower tribunal and through out the Appeal by the Third Appellate Court, and continued through the Supreme Court of Florida, despite the Petitioner moving that under rule of law the court had an obligation in order to protect the integrity of the court and the federal and Constitutional rights of the Petitioner. All motions for sanctions on these issues were denied. App., 13-44 a.

Under the *Rules Regulating the Florida Bar Rule 3-7.8 Procedures before a Circuit Court (a)* Filing of Motion. Whenever it shall be made known to any of the judges of the district courts of Appeal or any judge of a circuit or a county in this state that a member of the Florida Bar practicing in any of the courts of the district or judicial circuit or county has been guilty of any unprofessional act

as defined by these rules, such Judge may direct the state attorney for the circuit in which the alleged offense occurred to make in writing a Motion in the name of the State of Florida to discipline such attorney, setting forth in the Motion the particular act or acts of conduct foe which the attorney is sought to be disciplined. Petitioner upon Appeal to the Third District Court of Appeal, submitted in the initial brief the points of issues concerning the submission of false Orders and the signing by the court on these Orders.

Petitioner presented forty-four cases, comprising of direct conflict with intra- district courts that confirmed the lower court erred in dismissing the Petitioner's case with prejudice. App., 15-17, 22-23, 37-41 a.

(1) ***Florida District Court of Appeal.(2) Anthony*** **v.** ***Schmitt,*** **557 So. 656 (Fla. 2d. DCA 1990).(3)** ***Atena Insurance Company v. Estero Manufacturing & Building Supply, Inc.***

Fla. App. 1965, 174 So. 2d 747 (4) ***Beasley v. Girten,*** **61 So. 2d. 179 (Fla. 1952).(5)*.Beasley, Lifeguard Corp. v. U.S. Corp.*, So2d 94 (Fla. 2d DCA 1983). (6)** ***Beauchamp v. Collins,*** **500 So. 2d 294 (Fla. 3d. DCA 1986). (7)** ***Carr v. Dean Steel Bldgs., Inc.,*** **619 So. 2d. 392, 394 (Fla. 1st DCA 1993)..(8)** ***Clay Livingston v. State Dep't of Corrections,*** **481 So. 2d 2 (Fla. 1st DCA 1985). (9)** ***Dave's Aluminium Siding, Inc. v. C.& M. Ventures,*** **582 So. 2d. 147, (Fla. 3dDCA 1991)...*Del Duca v. Anthony,*** **587 So. 1306 (Fla. 1991). (11)*Epps v. Hartley,*** **495 So 2d 921, 922 (Fla. 4th DCA 1986).**

(12) ***Hernando Martin v. Jose R.E. Batista,*** **639 So. 630 (Fla 3d DCA 1994).(13)** ***Holl v. Talcott, Fla.*** **1996, 191 So. 40.(14** ***Pey v. Turnberry Tower*** **Corp.., 474 So. 2d. 1279 (Fla. 3d. DCA 1985)..(15)*Pilkington PLC v. Metro Corporation,*** **526 So. 2d. 943.. (16)** ***Maxwell v. Rolls Royce***

Motors, Inc. 522 So. 2d. 1943 (Fla. 4th DCA 1988).(17) *Maxwell Summitt Chase Condominium Ass'n v. Protean Investers, Inc.* 421 So. 2d. 562 (Fla. 3d. DCA 1982)..(18)*Morales v. Four Star Poultry & Provision* Co. 523 So. 2d.1183 (Fla. 3d DCA)..(19)Ramos v. Sanchez, 375 So. 2d 51 (Fla. 2d 1979)...(20)*Shelia Rules v.Richard Cambell 661 So. 2d 408(Fla 3rd DCA 1995). 21) Southern Pine Corp. v. Capital National Bank,* 324 So. 2d 112 3d DCA.. (22*) Stresscon Int'l, Inc. v. Ralph Merritt Dev. Corp.,* 384 (Fla.3d DCA). (23) *Tri Star Invs., Inc. v. Miele,* 407 So 2d 292 (Fla. 2d DCA 1981).(24) *Turner v. Anderson,* 376 So. 2d 899 (Fla. DCA 1979).... (25) *Ulm's Estate,* 345 So. 2d 1099 (Fla. 2d DCA 1977)..(26*) Wallraff v. T.G.I. Friday's* Inc. 490 So. 2d 50 (Fla. 1986).(27) *Westinhouse Electric Supply Company v. Diplomat Electric, Inc.* 221 So. 2d 436.(28) Wilson v. Woodard, 602 So. 2d. 547 (Fla. 2d. DCA 1992).*FLORIDA RULES(29) Fla. Prof. Resp. D.R and Fla. Stds. Imposing Law. Sanc.* 9.3..4-1.6 (A)...6.0, 6.1, 6.2 6.11, (30) *Fla. Code Jud. Conduct Canon* .2A, 3B(7). (31)*Fla. Code Jud. Conduct* Canon 3. (B), (5)..(D)...(E).. (32*) Fla. Code of Prof. Resp.* d.r. 4-3.5..

(33) F. R. Civ. P. 1.500, (B).3.7, 3.8..(34) *Fla. R. Civ. P.* 1.510 (A)..(C) (D).(35) *Fla. R. Civ. P.R.* 1.540 (B), (B3).(36) *Fla. R Jud. 2.071.*(37) *Fla. R. Jud. Adnin* 2.060 (d),(k)

(38) *Fla. Code of Prof. Resp.Rule* 4-8.4 (39*) Fla.Rules of Civ. P. Evidence* Code ch. 90.104,90.801,90.802 *SUPREME COURT (40) Armstrong v. Manzo,* 330 U.S. 545, 85 .Ct. 1187, 1191, 14 L.Ed. 2d. 62. (41) *Baldwin v. Hale,*68 U.S. 223, I WALL., 223, 17 LEd. 531. (42) *Celotex Corp. v. Catrett,* 477 U.S. 317, 106, S.Ct. 2548, 91 LE2d. 265.

(43) *Joint Anti- Facist Refugee Committee v. McGrath,* 341 U.S. 123, 170-172, 71 S.C.t.___624, 95 LEd. 817. (44)

Mercer v. Raine, 443 So. 2d. 944 (Fla. 1993).*(45) Roller v. Holly*, 176 U.S. 398, 20 S Ct., 410, 44 L.Ed 520 (1900 .) (46) *Stanley v. Illinois*, 405 U.S. 645, 647, S.Ct. 1208, 331 LEd. 2d. 551. (47) *The Florida Bar Complainment v.s. Keith Roberts 689 So. 2d. 1049 (Supreme Ct. of (Fla. 27, 1997)*

The Court failed to address violations of federal law, due process,, unethical violations by defendants attorney Richard Wassenberg , and Judge Sidney Shapiro.

Further the Supreme Court of Florida to avoid addressing federal issues chose to deny Petitioner's Petition for review while in the same instance a motion was pending before the court requesting sanctions on the continued violations and misconduct. The Supreme Court of Florida after denying review of the case ruled on a motion that had been pending before the court prior to the ruling on the petition for review, choosing to moot the motion rather than face the political ramifications against an attorney and a Judge's misconduct. App., 42 a.

ARGUMENT

Petitioner in addressing the question to the Supreme Court. What rule of law can set a precedence for such occurrences not to continue throughout the state court systems when the very occurrences violates federal law and the constitutional protected rights of the individual ?

Our forefathers certainly did not relay in the Constitution for attorneys to have the right to be the Judge and Jury. Rather the purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the state's jurisdiction against intentional and arbitrary discrimination.

The judgment of the Eleventh Circuit in the lower tribunal has significantly eroded the scope and operation of the justice that is to be afforded to all under the Constitution of the United States.

Postponing review is not likely to contribute to the reasoned resolution of the questions presented. The questions presented are of recurring importance and conflicts upon the State and Federal courts exist on this issue. The American Bar Association has shown concern over this issue and finds it to be wide spread among many states. In instance some court systems have a check system by having clerks complete the Orders rather than give the attorneys any opportunity to submit false orders or to prevent any instance of impropriety. Accordingly, this Courts review is warranted.

The court emphasized that the authority to enforce the Fourteenth Amendment is a broad power to remedy past and present discrimination and to prevent future discrimination. Accordingly, under Section 5, Congress can prohibit activities that themselves are not unconstitutional when it acts to enforce a constitutional right.. *City of Rome v. United States,* 446 U.S. 156, 177 (1980) (Congress may prohibit state conduct that "create{ s } the risk" that constitutional rights will be infringed). The court held, in *Boerne v. Flores*, 117 S Ct. 2157 (1997) that Congress's power to enforce the Fourteenth Amendment is confined to the enactment of laws that seek to " deter{} or remed {y }" violations of the Amendment. The court emphasized that, where Congress deems it necessary in pursuit of remedial or preventive ends " to prohibit conduct which is not itself unconstitutional," Congress authority is sufficiently " broad" to sustain such a prohibition and the court explained that there must be a

"congruence and proportionality" between the identified constitutional harms and the statutory remedy. and the means adopted to that end " *Boerne v. Flores*, 117 S. Ct. 2157 (1997).

One of the primary questions presented in the case is whether the state statutes are constitutionally defective in failing to provide for hearings "at a meaningful time. The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person.

It has long been recognized that " fairness can rarely be obtained by secret, one sided determination of facts decisive of rights. * * *{ And no better instrument has been devised for arriving at the truth than to give a person in jeopardy of serious loss notice and opportunity too meet it." *Joint Anti- Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170-172, 71 S.Ct. 624, 647, 95 L.Ed. 817 (Frankfurter, J. concurring).

If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented." This Court has not * * * embraced the general proposition that a wrong may be done if it can be undone." *Stanley v. Illinois,* 405 U.S. 645, 647, 92 S.Ct. 1208, 1210, 31 LEd.2d. 551.

This is not a new principle of Constitutional law. The right to a prior hearing has long been recognized by this Court under the Fourteenth and Fifth Amendments.

The Court has traditionally insisted that, whatever its form, opportunity for that Hearing must be provided before the deprivation at issue takes effect * * *" That the hearing required by due process is subject to waiver,

and is nor fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing before he is deprived . *Boddie v. Connecticut*, 401 U.S. 371, 378, 91, SCt. 780, 786, LEd.2d. 113.

The jurisdiction of this court is invoked under:

(1). Sec. {249}, Appellate Jurisdiction Over State Court Decisions: which states the Supreme Court has appellate jurisdiction over state court decisions.

a. Foundation of power:

(1) Constitutional basic sec.{250 } Article III provides that the Supreme Court "shall have appellate Jurisdiction, both as to Law and Fact.

(2) Judiciary Act of 1789 sec. {251 } Section 25 of the Judiciary Act of 1789 provided for the Supreme Court appellate review of state court decisions in which the state court decided against a federal right that had been asserted and in which the question presented immediately respected that federal right.

(3) Constitutionality of Supreme Court review of state court decisions : sec. { 252 }, conceded that the state courts were obliged to follow federal law faithfully. In the famous case of *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816), the Supreme Court held that Congress had the power to authorize the Supreme Court to exercise appellate jurisdiction over questions of federal law decided in the state courts. Further in *Murdock v. City of Memphis*, 87 U.S. (20 Wall.) 590 (1875) brought up an exception that the court may decide questions of state law as well when the state court has manipulated state law to avoid the command of federal law. The courts opinion in Murdock, warned that it had " such powers as may be necessary to cause { ITS } judgment . . . to be respected ."

Under sec. { 271 } State courts wishing to achieve a particular result and to protect that result from the Supreme Court reversal are obliged to make clear the state law basis for their decision. Petitioner moves that the state courts have not meet this rule of law. Under sec { 274 } states if the state procedure violated due process, either on it's face or as applied, it cannot bar Supreme Court consideration of a federal issue. *Michel v. Louisiana*, 350 U.S. 91 (1955). Further under sec { 276 } prevents discrimination against Federal law or evasion of Supreme Court Review and states: If a state court applies its procedural rules so as to discriminate against the assertion of a federal claim, *Wolfe v. North Carolina*, 364 U.S. 177 (1960), or to evade Supreme Court review, *Rogers v. Alabama*, 192 U.S. 226 (1904), the Supreme Court may decide the federal issue despite the asserted state procedural bar.

The petitioner moves that the state courts have violated constitutional rights under the Fourteenth amendment on failure of Due Process. Under sec. { 287 } states in cases involving constitutional rights, the Supreme Court states " duty . . . to make its own independent examination of the record when federal constitutional deprivations are alleged. "*Napoe v. Illinois*, 360 U.S. 264 (1959).

Petitioner, invokes pursuant to 28 U.S.C. sec 1254 (1). And further jurisdiction of this court under Supreme Court Rule 10.1 (b); which states a split of authority between a state court and another state court or a federal court of appeals on a federal question.

And under Supreme Court Rule 10.1 (c), which states an important unsettled question of law.

The judgment sought to be reviewed is from the Florida Supreme Court denying jurisdiction and denying a rehearing.

The petitioner , asserts that Constitutional Rights under the Fourteenth and Fifth Amendment have been violated under Due Process.

That further the courts under rule of law failed to address or acknowledge fraud upon their Court by the defendants Counsel Richard Wassenberg, by the submission of false orders and judgments presented by Attorney Richard Wassenberg, in the Eleventh (11) Judicial Circuit, Third District court of Appeals of Florida and the Florida Supreme Court.

That the court has failed to investigate as required under Rule of Law with the signing of these false orders and judgments as well as a violation of due process by the presiding Judge Sidney B. Shapiro.

In *Michigan v. Long*, 463 U.S. 1032, 103 S. Ct. 3469, 77Ed.2d. 1201 (1983), the court said: . . . " The duty of this Court to make its own independent examination of the record when federal constitutional deprivations are alleged is clear, resting as it does, on our solemn responsibility for maintaining the Constitution inviolate."

The petitioner in the lower tribunal court was not permitted to attend the Hearing on January 16, 1997 that resulted in the dismissal of the case with prejudice. The court gave no written or verbal prior notice that it was not going to allow the petitioner to attend by telephone appearance.

This case involves a false imprisonment of eleven hours (11), and involves Environmental dumping. This case began in 1995.

The Petitioner, shows as just cause that the Defendants Respondents, has submitted fraudulent documents and statements . to the courts. App.., 4, 7-9, 13-41 a. 1.The Defendant/ Respondent, submitted an order that he was the author of not the court, but leads the court to belief that this was a statement from the court. Moving for the court too compare his statement with that of the Official Court Reporters Transcript transcribed on the final hearing of January 16, 1997. App. 7-10 a..

This transcript shows the complaint of the Plaintiff was not dismissed with prejudice, the order was false this is of record from the transcript. App., 5-7, . Further the Defendant/ Respondent failed to move in this hearing for the defendants in any form or seek a judgment for the defendants, Bernard Lerner or Offer Nissenbaum. As proof submitted is the official transcript of the final hearing on January 16, 1997. (App.1-5 .).

Petitioner, moves that the judgment submitted by the / Respondent, is a Fraudulent judgment under the *Florida Rules of Civil Procedure Rule*_1.540. (3). Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party. And further violation under the Florida Bar Code of Professional Responsibility.

6.0 VIOLATIONS OF DUTIES OWED TO THE LEGAL SYSTEM. 6.1 FALSE STATEMENTS , FALSE STATEMENTS, FRAUD, AND MISREPRESENTATION;

States: Absent aggravating or mitigating circumstances, and upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conduct that is prejudicial

to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation to a court. App., 43 a. 6.11 Disbarment is appropriate when a lawyer: (a) with the intent to deceive the court, knowingly makes a false statement or submits a false document or (b), improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceedings. App., 43 a.

This Judgment was never moved for in any motions or granted in the final hearing of January 16, 1998. This judgment was in fact signed on the 17 of January, 1997 in chambers, was this conducted ex-parte ? There was no hearing or a motion for a hearing for this date. App., 4, 8, (Index to Record 507--508.).

Many cases throughout history have shown that the courts have stated :

To procure something by fraud, that fact may be shown, and if shown seasonably, the court will not tolerate or support an act, otherwise lawful, which is accomplished by unlawful means ** Such a fraud is one affecting the**

court itself and the integrity of its process. ***

Further the Supreme Court of Florida , in the recent case of *The Florida Bar Complaint vs. Keith Roberts*, 689 1049 (Supreme Ct. of Fla., Feb. 27, 1997, states:

Courts have added to the penalties recommended by disciplinary boards. Courts may impose sanctions more severe than can the governing disciplinary body, The Supreme Court has recently imposed higher sanctions in the absence of disciplinary records and intentional

misrepresentation and fraud. In the *Florida Bar Complaint_vs. Keith Roberts*, *Id.*, the Florida Supreme Court added a 90 day suspension to a reprimand, three years probation, restitution, and a host of other conditions.

The Plaintiff/ Petitioner, has documented beginning in the Lower Tribunal and throughout the Third District Court of Appeals the continued submission of false Orders and statement submitted by the Insurance attorney Richard Wassenberg. In addition to Judge Sidney Shapiro signing these Orders. The Plaintiff/ Petitioner, made the courts aware of these by filing the appropriate motions. These motions can be found in the record and would ask the court to review the record to clarify why this case is of such public importance. Justice to the public is not being afforded when these activities are clearly being ignored even when you report a judge or an attorney.

That under the *Rules Regulating the Florida_Bar Rule 3-7.8 Procedures before a Circuit Court*_(a) Filing of Motion. Whenever it shall be made known to any of the *judges* of the district courts of Appeal or *any judge* of a circuit or a county in this state that a member of the Florida Bar practicing in any of the courts of the district or judicial circuit or county has been guilty of any unprofessional act as defined by these rules, such Judge may direct the State Attorney for the circuit in which the alleged offense occurred to make in writing a Motion in the name of the State of Florida to discipline such attorney, setting forth in the Motion the particular act or acts of conduct foe which the attorney is sought to be disciplined.

WHEREFORE petitioner moves for the foregoing

reasons of statement and argument for the court to grant this Petition for a Writ of Certiorari, based on the questions of violations of Federal Law, Judicial Misconduct, and violations of the Canons and code of Ethics governing Attorney's and Judges. These violations were in direct result of the Petitioners case being dismissed with Prejudice and was a violation of Federal Law under the Fourteenth and Fifth Amendments. These violations and fraud upon the Court system are questions of great public importance in order to uphold the Judicial system and to continue the integrity and justice for all that was intended by the forefathers that founded the Constitution.

CONCLUSION

For the foregoing reasons, the Petition for Certiorari should be granted.

Respectfully submitted,

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